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N/O

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE TOWN OF GRIFFITH, INDIANA,
an Indiana Municipal
Corporation,

AND

THE STATE OF INDIANA,

Defendants.

Civil Action No.

Hon.

COMPLAINT

Plaintiff, the United States of America, by its undersigned attorneys on behalf of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), alleges as follows:

NATURE OF ACTION

1. This is a civil action brought against the Defendant, the Town of Griffith, Indiana ("Griffith"), an Indiana municipal corporation, pursuant to sections 309(b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1319(b) & (d). The United States seeks injunctive relief and civil penalties against the Defendant for discharging pollutants in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

JURISDICTION, VENUE AND NOTICE

2. This Court has jurisdiction over the subject matter of this action pursuant to section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345 & 1355.

3. Pursuant to section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. § 1391, venue properly lies in the Northern District of Indiana because Griffith is located in Lake County, Indiana.

4. The United States Department of Justice and the Administrator of U.S. EPA are authorized to bring this action pursuant to section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

5. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that, when the Administrator finds that any person is in violation of section 301 of the CWA, 33 U.S.C. § 1311, the Administrator may bring a civil action against that person in accordance with section 309(b) of the CWA, 33 U.S.C. § 1319(b).

6. Pursuant to sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(a) & (b), Defendant is subject to injunctive relief and civil penalties not to exceed \$25,000 per day for each violation of the CWA.

7. Notice of this action has been given to the State of Indiana as required by section 309(b) of the CWA, 33 U.S.C. § 1319(b).

8. The State of Indiana is joined as a party to this action pursuant to section 309(e) of the CWA, 33 U.S.C. § 1319(e).

THE DEFENDANT

9. Defendant is incorporated under the laws of the State of Indiana as a municipal corporation.

10. Defendant owns, operates and maintains a sewer network running through the Town which services industrial, commercial and domestic users.

11. By contract with the Sanitary District of the City of Hammond, Indiana ("HSD"), Griffith discharges its wastewater into the sewer system owned by the HSD.

12. At all times relevant to this action, Griffith did not possess a National Pollutant Discharge Elimination System ("NPDES") permit.

STATUTORY PROVISIONS

13. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into the waters of the United States except in accordance with the provisions of the CWA.

14. Section 309(b) of the CWA, 33 U.S.C. § 1319(b), authorizes the Administrator of the U.S. EPA to file a civil action for any violation for which he is authorized to issue a compliance order under subsection (a) of section 309.

15. Section 309(a)(1) authorizes the Administrator of the U.S. EPA to issue an order requiring compliance to any person he

or she finds to be in violation of section 301. Similarly, section 309(a)(3) authorizes the Administrator of the U.S. EPA to issue an order requiring compliance to any person he or she finds to be in violation of section 301.

VIOLATIONS SECTION 301(a) OF THE CWA

16. The allegations contained in paragraphs 1 through 14 of this Complaint are incorporated herein by reference.

17. On the dates specified in Exhibit A to this Complaint, Defendant discharged effluent from its sewers into the navigable waters of the United States.

18. Defendant's discharge of effluent into the navigable waters of the United States constitutes a violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

WHEREFORE, Plaintiff, the United States of America, prays that the Court:

1. Order the Defendant to pay a civil penalty of \$25,000.00 per day for each violation, pursuant to section 309(d) of the CWA, 33 U.S.C. § 1319(d).

2. Order the Defendant to cease all future unpermitted discharges of effluent into the waters of the United States.

3. Order the Defendant to prepare and implement a plan for the reduction of the impact of I&I on the Griffith sewer system;

4. Order the Defendant to improve the Cline Station facilities to reduce the possibility of future clogging;

5. Order the Defendant to provide adequate back-up capability;

6. Order the Defendant to revise the Griffith sewer use ordinance to impose restrictions on PCA's effluent, and to ensure compliance with the CWA and the NPDES permit IN0023060 issued to HSD.

7. Order the Defendant to enter into an interjurisdictional agreement with HSD which allows HSD to regulate the IUs in Griffith in accordance with the requirements of HSD's NPDES permit and Pretreatment Program.

8. Order the Defendant to develop and implement a trunk sewer inspection/cleaning program;

9. Order the Defendant to construct appropriately sized flow equalization facilities.

10. Order the Defendant to develop and implement a formal preventative maintenance plan which conforms in full to "Considerations for Preparation of Operation and Maintenance Manual" (EPA's Publication No. EPA-430/7-74-001).

11. Award Plaintiff its fees, costs and disbursements for this action.

12. Grant such other relief as this Court deems just and proper.

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